



Amy G. Rabinowitz
Counsel

March 15, 2004

Mary L. Cottrell, Secretary
Department of Telecommunications and Energy
One South Station
Boston, MA 02110

Re: D.T.E. 02-38

Dear Secretary Cottrell

On behalf of Boston Edison Company, Cambridge Electric Light Company, Commonwealth Electric Company, Fitchburg Gas and Electric Light Company, Massachusetts Electric Company, Nantucket Electric Company, and Western Massachusetts Electric Company (collectively the "Distribution Companies" and each individually a "Distribution Company"), I am enclosing a Motion for Clarification. In this Motion for Clarification, the Distribution Companies seek clarification of the Department's directive, set forth on page 14 of the February 24, 2004 order in the above-captioned docket, that each Distribution Company incorporate language into its individual Interconnection Standards Tariff that provides that any costs that the Distribution Company incurs in performing interconnection studies and system modifications that exceed ten percent of the cost estimate shall be borne by the Distribution Company.

We appreciate your time and attention to this matter.

Very truly yours,

A handwritten signature in black ink that reads "Amy G. Rabinowitz". The signature is written in a cursive, flowing style.

Amy G. Rabinowitz

cc: John Cope-Flanagan, Hearing Officer
Service List

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**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

Investigation into Distributed Generation

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Docket No. DTE 02-38

**MOTION FOR CLARIFICATION OF BOSTON EDISON COMPANY,
CAMBRIDGE ELECTRIC LIGHT COMPANY, COMMONWEALTH ELECTRIC
COMPANY, FITCHBURG GAS AND ELECTRIC LIGHT COMPANY,
MASSACHUSETTS ELECTRIC COMPANY, NANTUCKET ELECTRIC
COMPANY, AND WESTERN MASSACHUSETTS ELECTRIC COMPANY**

I. INTRODUCTION

Pursuant to the Department of Telecommunications and Energy's ("Department") regulations at 220 CMR 1.04(5) and 1.11(10), Boston Edison Company, Cambridge Electric Light Company, Commonwealth Electric Company, Fitchburg Gas and Electric Light Company, Massachusetts Electric Company, Nantucket Electric Company, and Western Massachusetts Electric Company (collectively the "Distribution Companies" and each individually a "Distribution Company") hereby move for clarification of the Department's February 24, 2004 order in the above-captioned proceeding ("Order"). In the Order, the Department reviewed the Model Interconnection Tariff (if not otherwise defined in this Motion, all defined terms shall have the meaning set forth in the Order) and ordered the Distribution Companies to file individual Interconnection Standards Tariffs consistent with the Department's directives.

This Motion for Clarification concerns the Department's directive with regard to costs. In the Order, the Department required each Distribution Company to incorporate language into its individual Interconnection Standards Tariff that provides that any costs

that the Distribution Company incurs in performing interconnection studies and system modifications that exceed ten percent of the cost estimate shall be borne by the Distribution Company. Order, p. 14. The Distribution Companies seek clarification that this cap applies only to those costs over which the Distribution Companies have control.

II. STANDARD OF REVIEW

The Department's standard of review for clarification of its decisions is well-settled. The Department has stated that "[c]larification of previously issued orders may be granted when an order is silent as to the disposition of a specific issue requiring determination in the order, or when the order contains language that is so ambiguous as to leave doubt as to its meaning." Boston Edison Company, D.P.U. 92-1A-B at 4 (1993); Whitinsville Water Company, D.P.U. 89-67-A at 1-2 (1989). "Clarification does not involve reexamining the record for the purpose of substantively modifying a decision." Boston Edison Company, D.P.U. 90-335-A at 3 (1992), citing Fitchburg Gas & Electric Light Company, D.P.U. 18296/18297, at 2 (1976).

III. DISCUSSION

In the Order, the Department directed each Distribution Company to submit an Interconnection Standards Tariff that includes the following language regarding the cost increases:

The Company will, in writing, advise the Interconnecting Customer in advance of any cost increase for work to be performed up to a total amount of increase of 10% only. All costs that exceed the 10% increase cap will be borne solely by the Company. Any such changes to the Company's costs for the work shall be subject to the Interconnecting Customer's consent. The Interconnecting Customer shall, within thirty

(30) days of the Company's notice of increase, authorize such increase and make payment in the amount up to the 10% increase cap, or the Company will suspend the work and the corresponding agreement will terminate.

Order, p. 14. This language is to be included in the Model Interconnection Tariff at 48, ¶ 5.1, 71-72, ¶ 7 and 74-75, ¶ 7 (Exh. A, Interconnection Service Agreement; Exh. F, Impact Study Agreement, ¶ 7; and Exh. G, Detailed Study Agreement, ¶ 7). Id.

The Department stated that it believes that such language would create an incentive for the Distribution Companies to make good faith estimates for interconnection costs. Id. Although the Distribution Companies agree that good faith estimates for interconnection costs are imperative, this incentive only makes sense to the extent the interconnection costs are within a Distribution Company's control and were foreseeable. The language that the Department has ordered the Distribution Companies to use in their tariffs does not make a distinction between controllable, foreseeable costs and uncontrollable, unforeseeable costs, however, and the Order is silent on this issue. Thus, the Distribution Companies request clarification.

This Department's language regarding cost increases does create an incentive for the Distribution Companies to make good faith estimates for costs within their control, including engineering and the labor to construct the interconnection facilities. Where construction and engineering activities are required, even where a particular project is relatively minor, unknown and unknowable circumstances may exist such that the Distribution Company cannot know in advance what the resultant costs will be. In such cases, the cap will not work as an incentive for the formulation of good faith cost estimates, because the Company cannot know or control the costs.

For example, once a Distribution Company digs a trench to begin construction, it may find old, abandoned infrastructure under city streets that is not shown on any map. The Distribution Company would have had no way of knowing the existence of this abandoned infrastructure in advance, and the costs of working around it or removing it may be significant, but are outside of the Distribution Company's control. Similarly, during construction, conditions such as ledge or environmental contamination may be discovered that would have significant upward effect on the cost estimates, again beyond the Distribution Company's control. Equipment and material costs may change as well, due to changing prices that equipment suppliers charge a Distribution Company from the time that the Distribution Company provides an estimate and the Interconnecting Customer commits to a project. For example, the cost of copper and steel has risen sharply over the past few months, and this in turn has affected the Distribution Companies' costs for material such as cable. Costs involved with permitting new construction could change significantly, too, in locations where abutters attempt to prevent a permit from issuing. Local permitting authorities must respond to abutter concerns, and thus would likely delay, or change the proposed route the Distribution Company would take to serve the Interconnecting Customer, resulting in increased costs beyond the control of the Distribution Company.

If the language set forth by the Department were to apply to all costs, both (1) known and foreseeable and (2) unknown and outside of the Distribution Company's control, the Distribution Company may find it necessary to give higher cost estimates in all cases, in order to protect itself and its customers from responsibility from such unknown and unforeseen circumstances. This result is contrary to the Department's goal

of encouraging the Distribution Companies to make reasonable, good faith estimates for interconnection costs. It would also work to the disadvantage of Interconnecting Customers trying to determine the likely economics of the project as well as possible financing options. Thus, the Distribution Companies believe that the requested clarification would be helpful to all parties.

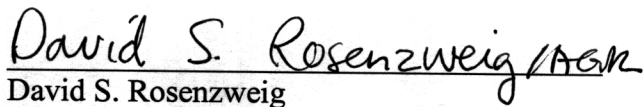
IV. CONCLUSION

For the reasons stated above, Boston Edison Company, Cambridge Electric Light Company, Commonwealth Electric Company, Fitchburg Gas and Electric Light Company, Massachusetts Electric Company, Nantucket Electric Company, and Western Massachusetts Electric Company respectfully request that the Department clarify its Order to state that the ten percent cap on costs applies only to those costs over which the Distribution Companies have control.

Respectfully submitted,

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COMMONWEALTH ELECTRIC COMPANY

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Dated: March 15, 2004